

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1463 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAJENDRA BHIMJIBHAI MAGHAD

Versus

BHANUBEN PUNJABHAI CHAUDHARI

Appearance:

MR B S Patel for Mr JK PARMAR for Petitioner

MR RC KAKKAD for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/01/99

ORAL JUDGEMENT

RULE.

Heard the learned Advocates for the parties. I have gone through the order passed by the Extra Asstt.Judge, Rajkot dated 16.9.1998. The learned Judge hsd found that the defendant is in possession of the subject property rightly or wrongly. The said premises of the said finding is based on ration cards mark 45/1 and 45/2. The

learned Judge himself has mentioned that the said documents have been produced by the defendant subsequently. The grievance of the petitioner is that the learned Judge has considered the said documents after the arguments were over. In view of this, he was deprived of the opportunity to make submission with respect to the said documents. Mr B S Patel, learned Advocate appearing for the petitioner states that a careful reading of the documents will show that they are in fact in favour of the petitioner. It is not for this Court to enter into the said controversy. The learned Judge has committed manifest error in considering the said documents mark 45/1 and 45/2 behind the back of the petitioner. Thus, the material illegality committed by the learned Judge calls for interference by this Court in exercise of powers under section 115 of the C.P.C. Consequently, the impugned order dated 16.9.98 passed by the learned Extra Asstt.Judge, Rajkot is quashed and set aside. The learned Judge shall hear the parties and pass a fresh order on the appeal. The parties shall appear before the learned Judge on 8.2.1999.

Rule made absolute to the aforesaid extent.

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msp.